

Fair Political Practices Commission
MEMORANDUM

To: Chairman Johnson and Commissioners Hodson, Huguenin, Leidigh,
and Remy

From: Hyla P. Wagner, Senior Commission Counsel, Legal Division
Carla Wardlow, Chief, Technical Assistance Division
Scott Hallabrin, General Counsel

Subject: Adoption of Proposed Regulation 18420.5 – Campaign Filing Schedule
for the February 5, 2008 Presidential Primary Election

Date: July 19, 2007

Proposed Commission Action: Adopt Regulation 18420.5 setting the filing schedule for state measures that are on the February 5, 2008 election ballot.

Reason for Proposal: California's presidential primary election next year has been moved forward to February 5, 2008. At the time of this writing, two state measures have qualified to be on the presidential primary election ballot: a transportation funding initiative and a community colleges funding initiative. A term limits measure and a referendum on Indian gaming proposals may be on the ballot as well. The deadline for initiative and legislative measures to qualify for the February 5, 2008 ballot is September 27, 2007, 131 days before the election.

As far as candidates, State Senate and Assembly candidates will run on the June 3, 2008 primary election ballot. However, a special primary or runoff election to fill a vacant state office may be consolidated with the February state primary election. For example, the two top vote getters in the special election to fill the late Juanita McDonald's Congressional seat (CD-37) were Assemblymember Laura Richardson (AD-55) and State Senator Jenny Oropeza (SD-28), with a runoff election scheduled for August 21, 2007.

Commission staff and members of the regulated community agree that the February 5 election date requires modification of the campaign filing schedule. The Act's report filing deadlines are designed around the June primary and November general elections, with special deadlines for filing preelection statements for elections not held in June or November. (Sections 84200.7 and 84200.8.)

Committees generally file semiannual campaign statements with a closing date of December 31 and June 30. Committees involved in an election are required to file the first preelection statement 40 days prior to the election and the second preelection statement 12 days before the election. A committee that is active in an election (contributes more than \$10,000) but does not otherwise have filing obligations for that election is required to file a supplemental preelection report due 12 days before the election.

Without changes, the early February 5 election date results in the following filing schedule:

Filing Schedule with No Changes

Statement	Period Covered	Filing Deadline
First preelection	Last report filed - Dec. 22, 2007	December 27, 2007
Semiannual	December 23 - December 31, 2007	January 31, 2008
Second preelection	January 1 - January 19, 2008	January 24, 2008

Problems with the above filing schedule are: the filing date for preelection reports falls too close to that of the semiannual report; the semiannual report covers just nine days and is filed after the second preelection report; the first preelection report is due December 27, two days after the Christmas holiday; and the requirement for other committees active in supporting measures to file supplemental preelection statements is inadvertently eliminated.¹

Summary of Regulation: Regulation 18420.5 combines the first preelection and the semiannual statements, resulting in the following filing schedule:

Regulation 18420.5 Filing Schedule

Statement	Period Covered	Filing Deadline
First Preelection/ Semiannual	Last Report Filed – December 31, 2007	January 5, 2008 (weekend extension to January 7, 2008)
Second Preelection	January 1 - January 19, 2008	January 24, 2008

Paragraph (a) of the regulation combines two statements and sets the new filing dates. The January 5, 2008 deadline for the first report falls on a Saturday, so the deadline is automatically extended to Monday January 7, 2008. (Regulation 18116.) Some members of the regulated community have commented that the turnaround for the preparation of the first report is tight, especially during the holidays, with Tuesday January 1, being a holiday. Many ballot measure committees will have information since their last quarterly filing to report, about three months worth of information. Gathering information from vendors about in-kind contributions in ballot measure campaigns is more difficult in such a short time frame. In addition, sponsors of the ballot measure committees need time to review the prepared reports before filing. The FPPC recognizes these concerns but balances them against the need to get disclosure of ballot measure funding out to the public promptly and early enough before the February 5 election so that the press can analyze and report the information.

Paragraph (b) reinstates the supplemental preelection report filing requirement, which was inadvertently deleted due to the February election date. Paragraphs (c) and (d) state

¹ Section 84202.5(b) provides that committees are not required to file supplemental preelection reports during any semiannual period in which the committee is required to file preelection statements under Section 84200.5. Because the committees are required to file preelection statements in connection with the June state primary, committees active in the February 5 ballot measure election might assert that they are not required to file supplemental preelection statements for the February election.

that the adjusted filing dates apply to political party committees and slate mailer organizations active in the February 5, 2008 election. The regulation has been changed from the version presented to the Commission in April to include state candidates because of the possibility that a special primary or runoff election may be consolidated with the February 5 election.

The Commission has the authority to combine the campaign reports committees must file. Section 84205 specifically states that the Commission may “by regulation or written advice” combine statements that candidates and committees are required to file. The Technical Assistance Division routinely combines statements for local jurisdictions’ special elections by written advice. If a special election falls near a semi-annual report date, Technical Assistance may combine one of the preelection reports with the semi-annual report, so the candidates are just filing two reports, instead of three.

In addition, there is precedent for the Commission’s establishing the filing schedule by regulation. The Commission set a filing schedule by regulation when the state presidential primary was moved from June to March in 1995. The Commission adopted then-regulation 18420.5 stating that all filing requirements normally applicable to a June election would apply to the March primary. Later the statute was amended to adjust the filing dates to the March primary.

Legislative Proposal: Similarly here, we expect the statutory filing schedule will eventually be amended to take into account the February presidential primary. The FPPC met with members of the regulated community in the Spring to seek legislation modifying the filing dates for the February 5, 2008 primary. However, the timetable was short, and reports from the Senate Elections Committee are that the revised filing schedule is not contained in any bill at this point. The filing dates in the legislative proposal are as follows:

Legislative Proposal Filing Schedule

Statement	Period Covered	Filing Deadline
First Preelection	Last Report Filed – Dec. 15, 2007	December 20, 2007
Second Preelection/ Semiannual	December 16, 2007 - January 19, 2008	January 24, 2008

The filing schedule in the legislative proposal would provide earlier disclosure by moving up the due date for the first preelection statement to December 20, 2007. The filing deadline for the first report in the legislative proposal (December 20, 2007) differs from that in the regulation (January 5, 2008), because the Commission prefers to seek legislation in order to both move up the first preelection report filing date to December 20 and change the period the report covers. Unless instructed otherwise by the Commission, the staff will continue to indicate the Commission’s support for this proposal in the next legislative session assuming the February presidential primary is retained.

Recommendation: Staff recommends that the Commission adopt Regulation 18420.5 to set the filing schedule for state committees involved in the February 5, 2008 election.